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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,934	11/06/2003	Robert E. Scarla	42994.0217	2933
20322	7590	08/06/2004	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,934

Applicant(s)

SCARLA, ROBERT E.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

Claims Objection

Claims 7 and 16 are objected to because of the following informalities:

- (1) In claim 7, line 3, "an" should --and--.
- (2) In claim 16, line 5, "of" should read --and--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claim 1, line 16, "said cutting" lacks clear antecedent basis. It appears "said cutting" should read --said cutting edge--.

(2) In claim 19, line 1, "said first position" and "said aperture" have no antecedent basis.

(3) In claim 20, line 3, "the blade holder" lacks antecedent basis.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brooks (U.S. Patent No. 1,444,324).

Brooks discloses a knife (Figs.6-9) including a handle (1), a neck (13), and a removable, replaceable blade (5) of uniform thickness with an upper edge and a reduced thickness edge which tapers to form a cutting edge (see Fig.9), and the neck (13) including a securing pin or blade retainer (14) configured to hold the blade (5) in the neck (13) as claimed.

3. Claims 2, 3, 6-8 and 10-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McNamara (U.S. Patent No. 2,265,775).

McNamara discloses a knife including a handle (12), a neck (11), and a removable, replaceable blade (10) of uniform thickness, the neck (11) slidably receiving the blade (10) and including a blade retainer (14) providing pressure against the blade (10), the handle (12) including an elongated groove (defined between the handle walls 19, see Fig.7) for receiving at least a portion of the neck (11), a device (24,26) for maintaining the neck (11) in at least one of an open position and a closed position, the neck (11) including a slot (define between the blade retainer 14, see Fig.5) for removing the blade (10) from the neck (11) and providing access to a portion of the blade (10) that is mated with the neck (11) as claimed.

4. Claims 2, 3, 5, 15, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harwell (U.S. Patent No. 2,134,973).

Harwell discloses a knife including a handle (10), a neck (19,21), and a removable, replaceable blade of uniform thickness with an upper edge and a reduced thickness edge which tapers to form a cutting edge (see Figs.2 and 3), the neck (19,21) including a blade retainer (21d,21a,21b) configured to hold the blade in the neck (21), whereby the blade can be removed from the neck (21) and replaced without disassembly of the handle (10), the handle (10) including a ring (11) and comprising a first part (10a) and a second part (10b), a catch device (14) enable a user to pivot the neck (21) in at least one direction using solely the catch device (14), and the blade including an anchor opening (24) as claimed.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNamara (U.S. Patent No. 2,265,775).

McNamara's knife as set forth shows all the claimed structure except for the shape of the blade (10).

However, the claimed trapezoidal shape blade is not patentably distinct over McNamara's rectangular shape blade, since it has been held that change in shape is an obvious matter of engineering design choice and not patentably advanced. In re Dailey, 149 USPQ 47, CCPA 1966.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNamara (U.S. Patent No. 2,265,775) in view of Wonderley (U.S. Patent No. 6,026,575).

McNamara's knife as set forth shows all the claimed structure except for the claimed finger stop.

Wonderley shows a knife comprising a finger stop (28/78) as a safety feature.

It would have been obvious to one skilled in the art to modify McNamara by providing the knife with a finger stop for preventing a user's fingers from sliding off of the knife handle as taught by Wonderley.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNamara (U.S. Patent No. 2,265,775) in view of Glesser (U.S. Patent No. 4,347,665).

McNamara's knife as set forth shows all the claimed structure except it lacks a catch device in the form of an opening in the neck to facilitate pivoting the neck using solely the catch device.

Glesser teaches providing an opening (34) in a pivotable element (12) to facilitate pivoting the element (12) using solely the opening (34).

It would have been obvious to one skilled in the art to modify McNamara by providing the pivotable element (i.e. the neck 11) with an opening to facilitate pivoting of the element/neck (11) as taught by Glesser.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

H Payer
August 3, 2004

Hwei-Siu Payer
Hwei-Siu Payer
Primary Examiner